

FILED

OCT 07 2016

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
BENTON OFFICE

UNITED STATES DISTRICT COURT

for the

Southern District of Illinois

PAMELA M. SMITH, as Guardian of the Estate
Person of Paige O. Allen and L. Scott Wooters,
disabled adults,

Plaintiff

v.

VILLAGE OF XENIA, ILLINOIS, an Illinois
municipal corporation,

Defendant(s)

Case Number:

16-1118-DRH-SCW
(Clerk's Office will provide)

PRO SE CIVIL RIGHTS COMPLAINT

(Non-Prisoner)

I. JURISDICTION

Subject matter jurisdiction is invoked under 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), and/or 42 U.S.C. § 1983. List any additional bases for federal subject matter jurisdiction here:

- a) 42 U.S.C.A. §12132, et seq (Americans with Disabilities Act)
- b) Rehabilitation Act of 1973 §504, as amended 29 U.S.C.A. §794.

II. PARTIES

Plaintiff:

A. Plaintiff, a citizen of ILLINOIS (state), who resides at
103 EAST STREET, XENIA, IL 62899, alleges that his/her
civil rights were violated by the individual(s) named below.

Defendant #1:

B. Defendant VILLAGE OF XENIA, ILLINOIS is employed as
(a) (Name of First Defendant)
MUNICIPAL CORPORATION
(b) (Position/Title)

with VILLAGE OF XENIA, 250 FRONT STREET, PO BOX 216, XENIA, IL 62899
(c) (Employer's Name and Address)

At the time the claim(s) alleged this complaint arose, was Defendant #1 employed by the state, local, or federal government? ☒ Yes ☐ No

If your answer is YES, briefly explain:

Check one of the following:

- ☐ This defendant **personally participated** in causing my injury, and I want **money damages**.
- ☒ The **policy or custom** of this official's government agency violates my rights, and I seek **injunctive relief** (to stop or require someone to something).

Defendant #2:

C. Defendant _____ is employed as
(Name of Second Defendant)

(Position/Title)

with _____
(Employer's Name and Address)

At the time the claim(s) alleged in this complaint arose, was Defendant #2 employed by the state, local, or federal government? ☐ Yes ☐ No

If you answer is YES, briefly explain:

Check one of the following:

- ☐ This defendant **personally participated** in causing my injury, and I want **money damages**.
- ☐ The **policy or custom** of this official's government agency violates my rights, and I seek **injunctive relief** (to stop or require someone to something).

Defendant #3:

D. Defendant _____ is employed as
(Name of Third Defendant)

(Position/Title)

with _____
(Employer's Name and Address)

At the time the claim(s) alleged in this complaint arose, was Defendant #3 employed by the state, local, or federal government? ☐ Yes ☐ No

If you answer is YES, briefly explain:

Check one of the following:

☐ This defendant **personally participated** in causing my injury, and I want **money damages**.

☐ The **policy or custom** of this official's government agency violates my rights, and I seek **injunctive relief** (to stop or require someone to something).

Additional Defendant(s) (if any):

E. Using the outline set forth above, identify any additional Defendant(s), using additional pages, if necessary.

III. PREVIOUS LAWSUITS

A. Have you begun any other lawsuits in this federal court?

☐ Yes ☒ No

B. If your answer to "A" is YES, describe each lawsuit in the space below. If there is more than one lawsuit, you must describe the additional lawsuits on another sheet of paper using the same outline.

1. Parties to previous lawsuits:

Plaintiff(s):

Defendant(s):

2. Case number:

3. Name of Judge to whom case was assigned:

4. Disposition of case (for example: Was the case dismissed? Was it appealed? Is it still pending?):

IV. STATEMENT OF CLAIM

State here, as briefly as possible, when, where, how, and by whom you feel your constitutional rights were violated. Do not include legal arguments or citations. If you wish to present legal arguments or citations, file a separate memorandum of law. If you intend to allege several related claims, number and set forth each claim in a separate paragraph.

Paige Allen is a disabled adult. Pamela M. Smith is her mother and legal guardian. Paige has cerebral palsy, is non-ambulatory, and is totally dependent on the use of an electric powered motorized wheelchair. Paige is intellectually disabled.

Scott Wooters is a disabled adult. Pamela M. Smith is his mother and legal guardian. Scott also has cerebral palsy type symptoms in his gait. He can ambulate partially with a walker or full assistance of a caretaker, however, will frequently use a manual wheelchair for ease of transport or across lengthy terrain. He is, likewise, intellectually disabled.

Scott and Paige live at a CILA home at 430 North State Street, Flora, Illinois, but frequently visit their mother, Pamela M. Smith, at her residence at 103 East Street, Xenia, Clay County, Illinois which is the family residence. Scott and Paige have been planning to relocate back to this home, once the outside accessibility is corrected, so the home may be licensed for CILA living.

On or about October 8, 2014, Defendant Village dug a ditch across Plaintiff's driveway which accesses East Street. As a result of the ditch, Plaintiff's pre-existing accessible driveway is no longer safely accessible to Plaintiff's wheelchair van and Scott and Paige are unable to get from the van to the house, as in the previous manner, before the removal of the accessible driveway entrance. The Village removed the underground culverts and refused to replace the double driveway access culverts thereby rendering the driveway access non-existent, as one can no longer drive across the now established three-foot ditch. There were two driveways that are now no longer accessible. The accessible drive was large and contained a wheelchair unloading pad and was used by public transportation buses for unloading on a stable surface with direct access to the sidewalk and ramp of the family home. Plaintiffs can no longer use public transportation to go to the family home as the buses cannot pull to the unloading area for safety. The now existing ditch is very deep and dangerous. It is collapsing from both the road and sidewalk sides. In some areas there is less than eight (8) inches from the sidewalk to where the ditch edge is (it is very deep and does not drain well creating additional safety issues if someone should fall into it). The Village did finally put a connecting sidewalk area on or about January 2016, to connect the sidewalk to the road. However, one cannot get a wheelchair from the sidewalk to the road as there are no cut downs in place.

V. REQUEST FOR RELIEF (*check as many boxes as appropriate*)

Plaintiff requests that the court grant the following relief:

Compensatory damages in the amount of \$ 75,000.00.

Punitive damages in the amount of \$ N/A.

An ordering requiring defendant(s) to:

Restore accessibility of Plaintiff's driveway and property.

A declaration that:

Defendant Village has violated the Americans with Disabilities Act and the Rehabilitation Act.

Other:

VI. JURY DEMAND (*check one box below*)

Plaintiff ☒ does or ☐ does not request a trial by jury.

DECLARATION UNDER FEDERAL RULE OF CIVIL PROCEDURE 11

I certify to the best of my knowledge, information, and belief, that this complaint is in full compliance with Rule 11(a) and 11(b) of the Federal Rules of Civil Procedure. The undersigned also recognizes that failure to comply with Rule 11 may result in sanctions.

Signed on: 10/07/2016
(date)

Pamela M. Smith
Signature of Plaintiff

103 East Street
Street Address

Pamela M. Smith
Printed Name

Xenia, IL 62899
City, State, Zip